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COUNTY DEPARTMENT OF REGIONAL PLANNING

12  
13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
15

16 CLINTON BROWN,  
17 Plaintiff,  
18 v.

19 CLARK R. TAYLOR, AICP, THE  
LOS ANGELES COUNTY  
20 DEPARTMENT OF REGIONAL  
PLANNING,  
21 Defendants.  
22  
23

Case No. 2:22-cv-09203-MEMF-KS

**DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S EX-PARTE  
APPLICATION FOR TRO**

Assigned to:  
Hon. Maame Ewusi-Mensah Frimpong  
Courtroom "8B"

Magistrate Judge Karen L. Stevenson  
Courtroom "580"

24  
25 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

26 Defendant Clark Taylor ("Taylor"), in his official capacity as an employee of  
27 the County of Los Angeles ("County") Department of Regional Planning, submits  
28 the following opposition to Plaintiff Clinton Brown's ("Plaintiff" or "Brown") Ex

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1 Parte Application Temporary Restraining Order.

2 **I. INTRODUCTION**

3 The Court should deny Plaintiff's "emergency" motion. Plaintiff's motion is  
4 unintelligible, and unsupported by competent evidence. Not only has Plaintiff not  
5 demonstrated any "likelihood of success" and "immediate and irreparable" injury  
6 related to this lawsuit warranting an ex parte motion for a temporary restraining  
7 order ("TRO"), but he has also failed to demonstrate he has standing to bring the  
8 TRO in this lawsuit as he is not the owner of the subject property located at 27250  
9 Agoura Road in unincorporated Los Angeles County ("Agoura Property" or  
10 "Subject Property") which is the basis of this lawsuit. Plaintiff is now taking  
11 advantage of the tragic California wildfires which occurred in January 2025, in  
12 order to yet again attempt to seek re-consideration of this Court's Order denying his  
13 motion for preliminary injunction on December 5, 2023, as well as this Court's  
14 denial of Plaintiff's Application for TRO filed on March 12, 2024. Plaintiff's TRO  
15 is void of any facts supported by evidence such as: what address is he being evicted  
16 from; when did he receive the eviction notice; a copy of the eviction notice and it  
17 relates to this matter; Plaintiff's application for the specified permits, and the  
18 government's denial of said permits. Additionally, Plaintiff does not provide any  
19 justification as to how the tragic California Wildfires have made any impact on his  
20 legal standing as well as any providing any legal basis for arguments in favor of a  
21 TRO. All these facts are unknown, and plaintiff fails to provide any competent  
22 evidence to support his conclusory accusations.

23 **II. BACKGROUND**

24 On December 5, 2023, this Court denied Plaintiff's multiple motions for  
25 injunctive relief. (Dkt. No. 105 at 9-11.) In reaching its decision, this Court  
26 considered whether the denial of a permit for a solar farm constitutes a taking. This  
27 Court concluded that Plaintiff failed to meet his burden to show that a denial for a  
28 solar farm constituted a taking. *Id.* Plaintiff filed a Notice of Appeal as to the

1 Court's ruling on December 11, 2023 that is pending.

2       Thereafter, on March 12, 2024, Plaintiff filed an "emergency" TRO seeking to  
3 enjoin an unknown and presumably unrelated party not connected to this matter  
4 from evicting him and an order for the Government to post a \$100,000 and written  
5 correspondence from the Government. (Dkt. No. 138.) On March 15, 2024, this  
6 Court denied Plaintiff's Application for TRO. (Dkt. No. 145.)

7       On January 12, 2025, Plaintiff filed the instant "emergency" TRO requesting  
8 that this Court issue a TRO requiring the Government to issue the necessary permits  
9 for the construction of 200 housing units immediately, without delay, or in the  
10 alternative, for an Order to Show Case directing the Government to appear before  
11 this Court and justify its refusal to issue the 200 housing permits. (Dkt. No. 185.)

12 **III. ARGUMENT**

13 **A. Legal Standard**

14       The standard for issuing a temporary restraining order is “substantially  
15 identical” to that for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v.*  
16 *John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “The proper legal  
17 standard for preliminary injunctive relief requires a party to demonstrate ‘that he is  
18 likely to succeed on the merits, that he is likely to suffer irreparable harm in the  
19 absence of preliminary relief, that the balance of equities tips in his favor, and that  
20 an injunction is in the public interest.’” *Stormans, Inc. v. Selecky*, 586 F.3d 1109,  
21 1127 (9th Cir. 2009) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20  
22 (2008)); *see also Center for Food Safety v. Vilsack*, 636 F.3d 1166, 1172 (9th Cir.  
23 2011) (“After *Winter*, ‘plaintiffs must establish that irreparable harm is likely, not  
24 just possible, in order to obtain a preliminary injunction.’”) The party seeking the  
25 injunction bears the burden of proving these elements. *Klein v. City of San*  
26 *Clemente*, 584 F.3d 1196, 1201 (9th Cir. 2009). Indeed, an injunction is “an  
27 extraordinary remedy that may only be awarded upon a clear showing that the  
28 plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22.

Moreover, under Rule 65, a temporary restraining order may be issued on an ex parte basis only if: “(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.” Fed. R. Civ. P. 65(b)(1) (emphasis added.) As the Supreme Court has noted, an ex parte temporary restraining order is justified in very limited circumstances:

The stringent restrictions imposed ... by Rule 65 on the availability of ex parte temporary restraining orders reflect the fact that our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute. Ex parte temporary restraining orders are no doubt necessary in certain circumstances, but under federal law they should be restricted to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer. *Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423, 438-39 (1974) (internal citation omitted). Here, Plaintiff has not demonstrated any purported “immediate and irreparable” injury warranting an ex parte motion for a TRO that is related to this lawsuit. Nor has he demonstrated that he is “likely to succeed on the merits” on his claims, or that enjoining Defendant or this unknown adverse party is in the public interest.

**B. Plaintiff Fails to Meet His Burden Under Federal Rule of Civil Procedure 65(b).**

Plaintiff has failed to meet his burden under Fed. R. Civ. P. 65(b) to “clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” Plaintiff sadly uses the occurrence of the California wildfires, occurring in January 2025, for the proposition that because he cannot proceed with the construction of urgently needed

1 housing, wildfire victims have been caused significant and irreparable harm.

2 Plaintiff further argues that Plaintiff's property rights have been effected causing the  
3 property in question to be economically idle.

4 This Court has already previously determined that Plaintiff failed to  
5 demonstrate he is likely to prevail on the merits of whether the denial of a permit for  
6 a solar farm constitutes a taking. This Court concluded that Plaintiff failed to meet  
7 his burden to show that a denial for a solar farm constituted a taking. (Dkt. No. 105.)  
8 This Court noted that prohibiting solar farms while allowing some other uses would  
9 resemble a form of zoning, which is generally not considered a taking. *Id.* Given  
10 the stated purpose in the cited Municipal Code, Plaintiff failed to meet his burden at  
11 this stage to show that he is likely to succeed with respect to whether the restriction  
12 was not intended to promote "health, safety, morals, or general welfare." *Id.*

13 Like his previous three "motion for preliminary injunction," as well as  
14 Plaintiff's prior TRO, this instant TRO relies on disjointed, repetitive, and  
15 conclusory accusations of wrongful conduct, for which Plaintiff provides no  
16 supporting evidence. *See American Passage Media Corp. v. Cass Communications, Inc.*, 750 F.2d 1470, 1473 (9th Cir. 1985) (reversing grant of preliminary injunction enjoining alleged antitrust violations based on conclusory affidavits); *Bascom Food Prods. Corp. v. Reese Finer Foods, Inc.*, 715 F. Supp. 616, 624 & n.14 (D.N.J. 1989) (movant must offer proof beyond unverified allegations in pleadings in application for preliminary injunction).

22 Before a federal court can decide a case, there must be a case or controversy.  
23 (*U.S. Const. art. III, § 2.*) One component of this case or controversy requirement is  
24 standing. (*Get Outdoors II, LLC v. County of San Diego*, 381 F. Supp. 2d 1250,  
25 1258 (2005) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)).) To  
26 prove standing, Plaintiff must show: (1) **an injury in fact**; (2) a causal connection  
27 between the injury and the defendant's conduct; and (3) a likelihood that the injury  
28 will be redressed by a favorable decision. (*Get Outdoors II, LLC*, 381 F. Supp. 2d at

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1 1258; *Lujan*, 504 U.S. at 560-61.) (emphasis added.) Plaintiff does not have  
2 standing to allege a taking occurred on the Subject Property as it is owned by the  
3 Atlas, LLC and Steve Weera Tonasut and not by Clinton Brown. Plaintiff lacks  
4 standing to bring his cause of action and seek a TRO against Defendant because a  
5 limited liability company (the Atlas LLC) and Steve Weera Tonasut, and *not* Brown  
6 himself, suffered the harms alleged in this lawsuit. This Court has taken judicial  
7 notice of the Grant Deeds showing ownership of the Subject Property by the Atlas,  
8 LLC and Steve Weera Tonasut. (Case No. 2:23-cv-02972-MEMF-KS at ECF No.  
9 18-2 and ECF No. 38.)

10 Because Plaintiff lacks standing and has not established that he will be  
11 irreparably harmed in connection with this matter, or likely to succeed on the merits  
12 of his claims, the Court must deny Plaintiff's TRO in its entirety.

13 **IV. CONCLUSION**

14 Plaintiff's "emergency" motion for a TRO is entirely unsupported. Plaintiff  
15 makes no effort to explain the "emergency" requiring him to file the motion on an  
16 ex parte basis. Plaintiff makes no effort to demonstrate his likelihood of success on  
17 the merits of his claim, beyond repeating disjointed and conclusory claims without  
18 any supporting facts or evidence. Plaintiff fails to explain why injunctive relief is  
19 necessary in this case to prevent irreparable harm as it relates to this matter. Lastly,  
20 Plaintiff's entire TRO is confusing, unintelligible, and unsupported by competent  
21 evidence. The Court should deny the TRO in its entirety.

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DATED: January 31, 2025

HURRELL CANTRALL LLP

By: /s/ Sanaz Rashidi  
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